

## EXHIBIT A

TGP Road and Pipeline RIGHT-OF-WAY N-88195

March 2, 2010

### TERMS AND CONDITIONS

(Continued from Form 2800-14)

#### **Construction Terms and Conditions**

1. The Holder shall comply with all applicable federal, state, county, and municipal laws, regulations, Best Management Practices, and standards, including but not limited to, those for public health and safety, environmental protection, locating, construction, operation, and maintenance, existing or hereafter promulgated, in exercising the rights granted by this right-of-way. It is the Holder's responsibility to determine and to acquire State, Federal, and municipal permits and authorizations as required.
2. The Holder shall contact Pershing County Road Department, to determine if an encroachment permit is necessary, and to obtain one if required.
3. The Holder shall call Underground Service Alert (1-800-227-2600) a minimum of 48 hours prior to construction of the road additions and pipeline, and prior to any rehabilitation work on the segments of intersecting roads.
4. The Holder shall conduct all activities associated with the construction, maintenance, operation, and termination of the right-of-way (ROW) within the authorized limits of the ROW. The ROW is 25 feet wide, 47,308.80 feet long, and contains 27.15 acres.
5. All operation, maintenance, design, material, and termination practices shall be in accordance with safe and proven engineering practices, and subject to the approval of the Authorized Officer.
6. Berms shall NOT be left on cut banks or road edges.
7. Construction, road, and pipeline operations activities shall be conducted in a manner to avoid creating hazards to public health and safety.
8. Construction noise shall be minimized through practices which avoid or minimize actions that typically may generate greater noise levels or that may generate distinctive impact noise.
9. The Holder shall furnish and apply water or other means satisfactory to the Authorized Officer for dust control, if necessary.

10. All improvements, operation, maintenance, design, material, and termination practices shall be in accordance with safe and proven engineering practices, and subject to the approval of the Authorized Officer.
11. Initial ground disturbing activities shall not be conducted during the migratory bird nesting season (April through July) unless necessary, and then only after inventories for migratory birds and nests are conducted by a qualified biologist or geologist acceptable to the BLM's Authorized Officer (Authorized Officer). Such survey(s) shall be conducted to identify either breeding adult birds or nest sites within the right-of-way (R/W) areas to be disturbed. If active nests are present within these areas to be disturbed, the Holder shall coordinate with the Authorized Officer to develop appropriate protection measures for these sites, which may include avoidance, construction constraints, and/or the establishment of buffers.
12. The Holder shall remove only the minimum amount of vegetation necessary for all activities.
13. The road shall be maintained in a sanitary condition at all times; waste materials at the site shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse oil drums, petroleum products, ashes, and equipment.
14. Construction and maintenance equipment shall have a fire extinguisher, shovel, and axe or Pulaski at all times when on federal land. All construction and operating equipment shall be equipped with appropriate exhaust spark arresters. Fire extinguishers shall be available on staging and other related construction sites. Water used for construction and dust control shall be available for fire fighting.
15. Portable chemical sanitary facilities shall be available and used by all personnel during periods of construction. These facilities shall be maintained by a local contractor.
16. The Holder's and construction personnel (employees, contractors, subcontractors, suppliers, and invitees) shall smoke only in designated areas and shall follow applicable BLM regulations regarding smoking.
17. The Holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to: General Land Office (GLO) and BLM Cadastral Survey Corners, reference corners, witness points, U. S. Coastal and Geodetic bench marks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the Holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where GLO or BLM right-of-way monuments or references are obliterated during operations, the Holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public

Lands in the United States, latest edition. The Holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other federal surveyors are used to restore the disturbed survey monument(s), the Holder shall be responsible for the survey cost.

18. Culverts shall be at least 18-inches in diameter of corrugated metal and shall accommodate the 50 year flood event.
19. The Holder shall maintain the ROW in a safe, useable condition as directed by the Authorized Officer. (A regular maintenance program shall include, but is not limited to, blading, ditching, water bars and surfacing).
20. All excess materials resulting from road repair, maintenance, and road side brushing shall be removed from federal land.
21. Use permitted by this grant is restricted to the structures authorized by this grant. All construction activities shall be confined to the minimum area necessary.

#### **Modification Terms and Conditions**

22. No future modifications, construction of improvements, expansion of the original road and water pipeline construction of buildings, or major maintenance operations involving disturbance of the land shall occur until plans for such actions have been submitted and approved in writing by the Authorized Officer. Any proposals involving surface disturbance shall require a cultural inventory and may require completion of an environmental assessment. Failure of the Holder to comply with this requirement may result in a suspension of operations authorized by the right-of-way grant.

#### **Hazmat Terms and Conditions**

23. The Holder shall notify the Authorized Officer if there is a significant variance from the approved action with respect to the use, storage, or disposal of hazardous material on this right-of-way.
24. The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste, as these terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 U.S.C. 9601, et seq., or the Resource Conservation and Recovery Act (RCRA) of 1976, 42 U.S.C. 6901 et seq., on the right-of-way (unless the release or threatened release is wholly unrelated to the ROW Holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.
25. The Holder shall comply with all applicable Federal, State, county, and municipal laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous material, as defined in this paragraph, that will be used, produced, transported,

or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance, or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant, or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas. The Holder is prohibited from discharging oil or other pollutants on federal land or into or upon waters on federal land. The Holder shall give immediate notice of any such discharge to the Authorized Officer and such other Federal and State officials as are required by law to be given such notice.

26. Holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by, or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799, and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the CERCLA of 1980, Section 102b. A copy of any report required or requested by any federal agency or state government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal agency or state government.
27. The Holder is prohibited from discharging oil or other pollutants on federal land or into or upon waters on federal land. The Holder shall give immediate notice of any such discharge to the Authorized Officer and such other federal and state officials as are required by law to be given such notice. The right-of-way shall be maintained in a sanitary condition at all times. Waste materials and vegetation at the site shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to: human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
28. In the event of the release of any hazardous substance, the Holder shall immediately notify the Winnemucca BLM hazardous materials specialist. The Holder shall be responsible for all work and costs associated with removing the substance from federal lands to the approval of the Authorized Officer. An approved hazardous materials spill kit shall be available in all vehicles and equipment.
29. A hazardous material spill and disposal contingency plan will be submitted to and approved by BLM and made readily available onsite before operations begin.

30. Material Safety Data Sheets (MSDS) for all hazardous materials to be transported on roads and in pipelines are to be provided to the Hazmat coordinator at the Winnemucca District Office.

### **Weed Terms and Conditions**

31. The Holder shall be responsible for weed control within the limits of the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods. Chemical weed control products shall not be used within 400 feet of any standing or flowing water body, or drainage, or slope on which the water can flow.
32. Before entering the work or maintenance area on federal land and on leaving a noxious weed all construction equipment and ground working tools are required to have their undercarriage and extremities washed to remove noxious weed seeds which could be on the equipment. Washing shall not take place within 150 feet of any body of water or ditch line. Washing shall not take place where the water can run down slope.
33. For a period of three years following the commencement of construction, the road and pipeline right-of-way shall be inventoried by the Holder for the presence of invasive, nonnative species. Inventory data shall be reported to the Authorized Officer within one week of receipt by the Holder. The area shall be treated with BLM certified pesticides and or herbicides following the Authorized Officer's approval of a pesticide and/or herbicide use proposal and approved if species are present. Following the three year period, annual inventory of the ROW shall be performed by the lessee for the presence of invasive nonnative species, with treatment occurring as necessary.
34. Use of pesticides and herbicides shall comply with the applicable federal and state laws. Pesticides and herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides and herbicides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer. Emergency use of pesticides and herbicides shall be approved in writing by the Authorized Officer prior to such use.

### **Cultural Resource Terms and Conditions**

35. The Holder is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites or for collection of artifacts.
36. Pursuant to 43 CFR 10.4(g), the Holder of this authorization must notify the Authorized Officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(c) and (d), the Holder must

stop activities in the immediate vicinity of the discovery and protect it from all activities until notified to proceed by the Authorized Officer.

37. Any cultural and/or paleontological resource (historic or prehistoric site or object) or Native American human remains, funerary item, sacred object, or objects of cultural patrimony, discovered by the Holder, or any person working on their behalf, during the course of activities on public land, shall be immediately reported to the Authorized Officer by telephone, with written confirmation. The Holder shall suspend all operations in the immediate area of such discovery and protect it until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant values. The Holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the Holder.

#### **General Terms and Conditions**

38. In case of change of address, the Holder shall immediately notify the Bureau of Land Management (BLM) Authorized Officer.
39. This grant is subject to all valid rights existing on the effective date of this right-of-way grant. The effective date of this right-of-way grant is the date of execution by the Authorized Officer.
40. The lessee/holder shall be responsible for all suppression costs for any fire resulting from their operations and practices.
41. The federal regulations incorporated in 43 CFR 2800 are inclusive within the terms and conditions.
42. The ROW is not for the exclusive use of the Holder. All existing and future Holders shall be responsible for maintenance, and determining the maintenance and respective responsibilities. Upon request, the Authorized Officer shall be provided with copies of any maintenance agreement entered into.
43. The Holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes, except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the ROW.
44. The Holder is responsible for notification to existing and future ROW Holders on federal land should activities potentially affect their authorized use(s).
45. The Holder shall inform the Authorized Officer within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.

46. Fences, signs, or other structures, which could be interpreted to represent a third party, private use, shall not be installed or remain on or within the right-of-way.
47. The Holder shall comply with any requirements prescribed by the NDEP-BAPC.
48. The Holder shall prevent any activities which may cause erosion. Where erosion has resulted, the Holder shall revegetate and rehabilitate the location. The Holder is responsible for consultation with the Authorized Officer regarding acceptable methods and procedures. Any road or pipeline access, construction, and/or maintenance road(s) shall be winterized by providing a well drained roadway using water barring, maintaining drainage, and additional measures to minimize erosion. To minimize erosion from storm water runoff, access roads shall be maintained consistent with the best management practices (BMPs) for road construction applicable to development roads. BLM BMPs for storm water shall be followed, as applicable, on public lands.
49. Vehicles shall be restricted to routes approved by the Authorized Officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the Authorized Officer.
50. The Authorized Officer reserves the right to enter upon the right-of-way and inspect all facilities to assure compliance with conditions of this grant.
51. No activities shall be performed during periods when the soil is too wet to adequately support equipment. If such equipment creates ruts in excess of six inches deep, the soil shall be deemed too wet to adequately support construction or maintenance equipment.
52. Subleasing authority or selling the right-of-way is not authorized.
53. In accordance with federal regulations in 43 CFR 2807.21, (a) With BLM's approval, you may assign, in whole or in part, any right or interest in a grant; (b) In order to assign a grant, the proposed assignee must file an application and satisfy the same procedures and standards as for a new grant, including paying processing fees (see §2804 of this part); (c) The assignment application must also include: (1) Documentation that the assignor agrees to the assignment; and (2) A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations; (d) the BLM will not recognize an assignment until it approves it in writing. The BLM will approve the assignment if doing so is in the public interest. The BLM may modify the grant or add bonding and other requirements, including additional terms and conditions, to the grant when approving the assignment. The BLM may decrease rents if the new holder qualifies for an exemption (see § 2806.14 of this part), or waiver or reduction (see §2806.15 of this part) and the previous holder qualified for an exemption or waiver or reduction and the new holder does not. If the BLM approves the assignment, the benefits and liabilities of the grant apply to the new grant holder. (e) The processing time and conditions described at §2805.15 (c) of this part apply to assignment applications.

54. The Holder agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the United States, or its employees, agents, contractors, or lessees, or any third-party, arising out of, or in connection with, the Holder's use, occupancy, or operations on the right-of-way. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the United States and its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and right-of-way which has already resulted or does hereafter result in: (1) Violations of federal, state, and local laws, and regulations that are now, or may in the future become, applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substance(s), as defined by federal or state environmental laws; off, on, into, or under land, property, and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by federal and state environmental laws are generated, released, stored, used, or otherwise disposed on the right-of-way, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; (6) or natural resource damages as defined by federal and state law. This covenant shall be construed as running with the right-of-way and may be enforced by the United States in a court of competent jurisdiction.
55. The Holder shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
56. Should the Holder fail to perform these and future terms and conditions requirements, within 60 days of receipt of the Authorized Officer's written notification to do so, the BLM may perform the requirements at the Holder's expense, including the administrative costs to the BLM to effect any such action.
57. If the Holder violates any of the terms and conditions of this grant, the Authorized Officer, after giving written notice, may declare the grant terminated. The Authorized Officer may consult with the Holder and, at the Authorized Officer's discretion, grant a period of time to cure the violation prior to declaring the grant terminated.
58. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the right-of-way or the land underlying the right-of-way is not being reserved to the United States in the patent/deed and/or the right-of-way is not within a right-of-way corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the



right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the right-of-way shall be considered a civil matter between the patentee/grantee and the right-of-way Holder.

### **Rehabilitation Terms and Conditions**

59. The Holder shall seed disturbed areas within the authorized right-of-way resulting from grading and other activities. The Holder shall coordinate with the Authorized Officer for seeding methods, seed mix, and planting season.

#### **BLM-Recommended Seed Mix: Saltbush Mix**

<b><u>Species</u></b>	<b><u>PLS LBS./Acre</u></b>	<b><u>Bulk LBS./Acre</u></b>	<b><u>PLS/sq. ft.</u></b>
Fourwing saltbush	3.00	5.00	4
Shadscale	3.00	5.00	4
Indian ricegrass	1.00	1.25	4
Siberian crested wheatgrass	2.50	3.00	10
Totals	9.50	14.25	22

PLS = Pure Live Seeds

Native species –fourwing saltbush, shadscale, Indian ricegrass

Introduced species – Siberian crested wheatgrass

60. Upon completion of the road and pipeline construction, areas of disturbed land no longer required for operations shall be reclaimed to promote the reestablishment of native plant and wildlife habitat. Such unneeded and any other unoccupied disturbed areas shall be seeded as directed by the Authorized Officer using the above seed mixture and application rate. Any variance in the mix must be coordinated first and approved by the Authorized Officer.
61. Unless certified weed free seed is procured for the reclamation of this project, all seed shall be tested for purity, noxious, poisonous and or prohibited plant species, and the test results submitted to and approved by the BLM authorized officer.

### **Reclamation**

62. A minimum of 12 inches of topsoil shall be salvaged during construction and stock-piled for use during subsequent reclamation of the disturbed areas.
63. Upon abandonment of the pipeline, the following shall be done:
- The wells shall be removed or capped to comply with all Federal and State of Nevada regulations.

- b. All reclamation of disturbed areas shall be completed within one year from the date of proper plugging and abandonment of wells. Any constructed roads, drill pads and reserve pits shall be recontured to original grade, salvaged topsoil spread on the disturbed area and the site scarified. The disturbed area shall be seeded by hand broadcasting or drilling with the BLM recommended seed mixture. The area shall be raked or dragged to cover the seed if broadcast seeding is used. The BLM Winnemucca District Office shall be notified in writing when reclamation operations commence and are completed.

### **Relinquishment Terms and Conditions**

64. The right-of-way shall be relinquished to the United States within 180 days if it is no longer needed for the use it was authorized to serve.
65. Prior to relinquishment of any portion of the right-of-way authorized by this grant and future amendments(s), the Holder shall contact the Authorized Officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The Authorized Officer must approve the plan in writing prior to the Holder's commencement of any termination activities. The Holder shall be responsible for the cost and implementation of the approved rehabilitation plan.